THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.8909 of 2007

26.4.2007

Between:

B.Ramulu, S/o.Balaiah

… Petitioner

AND

The Joint Collector-I, Ranga Reddy District
And others

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.8909 of 2007

ORDER:

The petitioner herein is aggrieved by the order of third respondent herein in proceedings No.D1/391/2006, dated 04.4.2007. By impugned order, third respondent ordered to record the names of respondents 9 and 10 as owners of the land admeasuring Acs.1.14 gts in survey No.64 situated at Budwel village of Rajendranagar Mandal in Ranga Reddy District (subject land) in column Nos.5 to 8 in the record of rights under the provisions of Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (RoR Act, for brevity). Be it noted the Tahsildar issued the impugned order after considering the application made by respondents 9 and 10 in Form VI-A and exercised powers under Section 4 read with 5(2) of RoR Act.

Petitioner herein along with his father allegedly purchased the subject land under registered sale deed dated 12.8.1971 from Bansilal Varma and since 1977 he is recorded as possessor. It is his case that his father died 30 years ago and he alone is the absolute owner of subject property to the extent of 50% share. Mutation was also granted to him on 19.8.1998. It appears the name of Kalwakola Narayana was recorded in the tenancy records but, on an application filed by the petitioner under Section 40(3) of Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands Act, 1950, third respondent deleted the name of Kalwakola Narayana by proceedings dated 01.6.1999. Petitioner was also allegedly issued Pattadar Pass Books (PPBs) under RoR Act. It is further alleged that respondents 4 to 8 herein filed an application before second respondent claiming the subject land and challenged the orders of third respondent dated 19.8.1998 mutating the subject land in the name of petitioner. By order dated 10.7.2003, second respondent set aside the order of third respondent against which the petitioner filed revision petition before first respondent in Case No.D5/6975/2003. The same was disposed of on 01.9.2006 advising the parties to approach the MRO with the final

order of the suit being O.S.No.515/2001. Respondents 4 to 8 filed the said suit on the file of the Court of the Additional Junior Civil Judge for permanent injunction against Janachaitanya Housing (P) Ltd., in which the petitioner was arrayed as second defendant. The suit was dismissed for default on 28.8.2006. Therefore, petitioner submitted an application to third respondent. By a memo dated 13.11.2006, third respondent advised petitioner to approach the civil court for redressal. In the meanwhile, respondents 4 to 8 herein executed sale deed dated 17.7.2006 in favour of respondents 9 and 10. The then filed an appeal under section 5(5) of RoR Act before the second respondent challenging the memo dated 13.11.2006 issued by the Mandal Revenue Officer (MRO), Rajendranagar Mandal. The matter was then remanded to third respondent whereafter the proceedings were reopened. Though the petitioner submitted a letter on 11.4.2007 to third respondent requesting to issue notice to him, without any such notice, the impugned order is passed.

Learned Counsel for petitioner raised only ground that personal notice was not issued to the petitioner and, therefore, the impugned order cannot be sustained. He however does not dispute that against the order of the MRO appeal would lie under Section 5(5) of RoR Act.

A reading of Sections 4 and 5 of the Act read with Rules 18 to 20 of Andhra Pradesh Rights in Land and Pattadar Pass Books Rules, 1989 (the Rules, for brevity) would show that after receiving an application for change of record of rights, recording authority (Tahsildar) has to issue notice in Form No.VIII and conduct enquiry. During such enquiry, recording authority has to consider all objections received pursuant to notice in Form No.VIII. It may also be noticed that the notice in Form No.VIII requires all persons interested or affected by the amendment of record of rights, to show cause as to why amendment should not be carried out and such persons are required to be given time of 30 days. The publication of notice in Form No.VIII is sufficient compliance with principles of natural justice because under Section 5(3) of RoR Act, notice has to be issued in the manner prescribed, before recording authority carries out amendment in the record of rights under subsections (1) and (2) of Section 5 of RoR Act. Insofar as merits of the case is concerned, petitioner may appeal under Section 5(5) of RoR Act before second respondent. In view of this, this Court is not inclined to go into merits of the case. The petitioner is given liberty to file appeal.

The writ petition, subject to above observations, is accordingly dismissed. No costs.

April 26, 2007. (**V.V.S.RAO, J**)

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